

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
February 5, 2002

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:00 p.m., Tuesday, February 5, 2002, in the Board Room, York Hall, by Chairman Donald E. Wiggins.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. Pastor Jenny Russell, Yorkminster Presbyterian Church, gave the Invocation

Pledge of Allegiance to the Flag of the United States of America. Chairman Wiggins led the Pledge of Allegiance.

PRESENTATIONS

INTRODUCTION OF NEW MEMBERS TO YORK COUNTY BOARDS AND COMMISSIONS

Chairman Wiggins and Vice Chairman Zarembo introduced and welcomed Ms. JoAnne Foudriat as a newly appointed member to the Senior Center of York Board, and presented her with a York County pin and Boards and Commissions Handbook.

COMMENDATION OF H. R. ASHE

Mr. Zarembo read Resolution R01-221 recognizing and commending Mr. H. R. "Dick" Ashe for his service as a member of the York County Board of Supervisors during 2001.

Chairman Wiggins then presented Mr. Ashe with a framed and sealed copy of the resolution and expressed the Board's appreciation for the time he spent with the Board. He also noted that Mr. Ashe had been nominated by Gloucester County for a citizens award for assisting state building officials in doing their jobs.

CLEAN BUSINESS AWARDS

Chairman Wiggins and Mr. Zarembo with assistance by Richard Wallsom, Chairman of the York County Beautification Committee, presented Clean Business Awards to representatives of the following York County businesses for the first quarter of 2002:

Upper County	Williamsburg Appliance Sales & Service
Middle County:	Watermen's Museum
Lower County:	Yorkshire Downs Apartments

CITIZENS COMMENT PERIOD

No one appeared to speak at this time.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett reported that the General Assembly was in full swing, and he provided the status of several bills, to include:

House Bills 13 & 16:	Carried over. Would have granted counties same taxing authority as cities and towns
House Bill 145	Killed in committee. Annual "Meet and Confer" bill. Would require public employers to meet with employee representatives on employment issues.
House Bill 349	Passed the House and referred to the Senate. Annexation bill. Would specify that cities cannot use landowner petitions as an end-run around the annexation moratorium.
House Bill 371	Carried over. Would exempt all persons 65 and older from the E-911 tax.
Photo Monitoring Bill	Passed by indefinitely.
VDOT Drainage Bill	Stricken from the docket.
House Bill 770	Passed by until next year. Would allow counties and cities to levy a 1 percent income tax.
House Bill 1212	Carried over until next year. Would make multi-section manufactured housing a use of right in any place where a single-family home is built.
House Joint Resolution 1	Carried over. Would allow the Governor to serve two terms.
House Joint Resolution 131	Carried over until next year. Would allow School Boards to impose real property taxes.
House Bill 603	Pending in the House. Would require certified mail to be sent to landowners in all zoning map amendments.
House Bill 1367	Pending in the House. Would require a landowner's permission for any rezoning; and if permission is not given, would require compensation to the landowner for the effect of the change in zoning.

Mr. Shepperd asked what was happening with the drainage bill.

Mr. Barnett stated it was stricken from the docket. He indicated he would call Delegate Rapp's office to see exactly what it means.

Chairman Wiggins indicated he would answer Mr. Shepperd's question during his presentation. He stated he had met with the Highway Department in Richmond this past week.

Mr. Zaremba stated he had always been under the understanding that VDOT had a responsibility for the ditches that are associated with the primary and secondary road system. The County has had a number of issues with VDOT in the past, and ultimately they recognized their responsibility and took care of the problems. He asked what the existing law was on this subject, and had the County heard anything yet on where the General Assembly is with the budget.

Mr. Barnett stated he had not seen anything definitive. The Governor has put forth a list of priorities, and there was a legislative alert that was forwarded to the County Administrator asking for input from local governments on those priorities.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board of its work session scheduled for next Tuesday, February 12, to discuss the Land Use Program, York Hall Furnishings and Use, and the sewer utility rates. He then indicated there had been a number of questions this week regarding some development issues in the County, and he updated the Board members on the following:

Queens Lake Middle School—Creekside Landing: Quite a bit of discussion last summer on this project. The County staff hadn't heard anything from the developer in the way of a formal submission until January 18. The plans have been received and are being reviewed by staff. The finished comments should be out in the next week or so. The project is a cluster development planned on 204 acres with 267 lots. VDOT is reviewing the traffic study, and its comments will be incorporated with the staff's.

Wal-Mart: There have been a lot of articles in the news about Wal-Mart in the upper end of the County. Staff is reviewing Wal-Mart's fourth submission and dealing with drainage issues and stormwater retention pond issues. It is hoped that the final approval will occur by the time the VDOT comments are back. Progress on the project is good.

YMCA: Final plan approval was issued last Friday, and tomorrow it is anticipated that the contractor will bring in the paperwork for the land disturbing permit.

Mr. Burgett indicated the Wal-Mart project drainage flows into the Williamsburg watershed, and an article in the newspaper has expressed high concern that York County makes sure the project will not impact the watershed. He stated it only stands to reason that because there is a considerable amount of upper York County served by the same reservoir that the County staff would do everything necessary to see that the watershed is protected.

Mr. McReynolds agreed, stating staff is very concerned about protecting the quality of the water in the reservoir.

Mr. Shepperd asked where the County was with the issue of water quality in the schools.

Mr. McReynolds stated that filters and valves have been replaced in the system, and all standards have been met in all the schools. All schools have been tested and found to be fine.

MATTERS PRESENTED BY THE BOARD

Mr. Burgett indicated he had recently attended a meeting where the group was brought up to date on things happening in the schools. He stated he thought it interesting that the schools had performed tests on the water mains at these schools, and at the main the water was very safe; the problem was in the filters. Mr. Burgett also noted that the first York County charter school, York River Academy, had been formed. He stated it was for 9th and 10th graders to receive technical training which opens career tracks for individuals who may not do as well in the academic area. He stated it works well with the Workforce Development Program in which York County is very active. Mr. Burgett then indicated he had the pleasure of meeting with the Pinehurst Homemakers from Piney Point, stating they had some good questions for him. He noted the Business Breakfast was coming up on February 14, 7:30 a.m., at the Holiday Inn 1776, which was sponsored by the Industrial Development Authority and the Office of Economic Development.

Mrs. Noll stated that on Thursday she and Anne Smith went to the VACo and VML Legislative Day, making 10 appointments from 8:00 a.m. to 4:45 p.m. She indicated their purpose concerned the budget and that it not be balanced on the backs of the local citizenry in terms of eliminating discretionary programs and cuts in the CSA programs, and she spoke of the ramifications to local governments by these cuts. As far as the budget goes in Richmond, Mrs. Noll stated it was very gloomy. She suggested to members of the General Assembly that they cut

administrative costs rather than the programs themselves. Mrs. Noll then stated that on Friday she ran one of the VACo programs for the new board chairmen in Virginia.

Mr. Shepperd stated he attended his first Colonial Community Criminal Justice Board meeting, and noted there are many dedicated people involved in the program. He announced that on March 7 he would be holding a District 5 Town Meeting at Tabb Elementary School in the cafeteria at which time he would provide a very short presentation on a variety of issues affecting the people in District 5. He stated it was an opportunity for the citizens to come out and participate.

Mr. Zaremba addressed the subdivision being built behind Queens Lake Middle School, noting there had been a meeting at the school back in June with the developer, School Board representatives, and County staff where the developer presented the project and the citizens were able to ask questions. He stated there is a commitment on the part of these parties that as the development goes forward the whole community will be kept abreast of what is taking place. He stated he would ask the developer, the County staff, and the school staff to hold another meeting if significant progress starts on the development. Mr. Zaremba then addressed the Wal-Mart development in the upper County, stating he appreciated Mr. Burgett's comments regarding the need to keep the reservoir from becoming polluted. He stated the same concern was addressed with the Lowe's development, and the County worked to make sure no problems happened, and the same is being done with the Wal-Mart development. Mr. Zaremba then appealed to the citizens to get involved with this year's budget process, discussing the significant problems that are taking place in Richmond that will impact local governments.

Chairman Wiggins stated that this past Monday he and Mr. McReynolds traveled to Richmond to discuss the drainage situation with Delegate Rapp and to get a bill introduced that would require VDOT to maintain their ditches. He stated the discussion with Delegate Rapp and others confirmed that VDOT already has this requirement, and it would be unnecessary to put such a bill before the legislature. Delegate Rapp arranged for a meeting with Mr. Liston who is in charge of drainage for the state, but Chairman Wiggins stated he was not encouraged by the conversation. He stated he was able to get Mr. Liston's assurance that VDOT would provide a representative on the County's drainage committee, and he would recommend to some of the other counties to do as York has done and establish such a committee. Chairman Wiggins then noted he had met with the Peninsula Mayors and Chairs who discussed Senator Williams' proposal for a referendum to give the citizens the right in this area to decide whether or not they wanted a tax for transportation. He stated the tax would only be for six major projects in the Hampton roads area, and it would not do anything to help York's transportation problems as they exist today. He noted he then attended the Hampton Roads Mayors and Chairs meeting that also discussed the transportation problems and the generally poor budget outlook in Richmond.

Meeting Recessed. At 7:55 p.m. Chairman Wiggins declared a short recess.

Meeting Reconvened. At 8:03 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

PUBLIC FORUM: PROPOSED FY2003 BUDGET

Mr. McReynolds explained that each year the Board conducts a public forum to receive comments from individuals and citizen groups to provide input prior to completing the year's upcoming budget. He briefly reviewed expected revenues and expenditures for FY03 and listed for the public the dates for the Board's budget work sessions and budget adoption.

Chairman Wiggins then opened the public forum on the proposed FY2003 Budget.

Mr. John Kuplinski, Vice Chairman of the Colonial Community Criminal Justice Board, provided the Board with some background information on the Justice Board, noting that it is a state mandated locally funded board. Funding comes from the six member jurisdictions on a formula based on the general population. Mr. Kuplinski stated the Justice Board is attempting to get state funding, but it is unlikely during the upcoming fiscal year. He then discussed the

ways the Justice Board has benefited York County, and indicated the planner position has been the one expenditure that has kept the program going.

Ms. Debbie Frecker, 205 Pinehurst Drive, representing the Virginia Cooperative Extension Leadership Council, encouraged the Board's support of the Extension budget, stating it enhances the quality of life for all York County citizens at a minimal cost per capita. She stated the Extension budget is supported by all three levels of government, and they appreciate the past relationship and support of York County.

Mrs. Clyde Jackson, representing the Senior Center of York Board, stated the Senior Center continues to be an excellent example of what can be done when a common goal is identified and a successful three-way partnership is formed such as has been the case with the County, the Peninsula Agency on Aging, and the citizens of York County. She stated there has been a continued outpouring of enthusiasm and support from the community and volunteers, and during 2001 the Center celebrated its 10th anniversary and welcomed over 14,000 patrons during that year. Mrs. Jackson thanked the Board for its support and continued faith in the Center's goals.

Mrs. Sheila Myers, representing the York County Arts Commission, indicated the Commission is an advisory body established by the Board of Supervisors in 1989 to make recommendations to the Board of Supervisors to improve the cultural environment in York County. She noted there were 30 applicants last year for funding, and all of them were funded, although not at the levels requested. Mrs. Myers indicated that the County, through the Arts Commission, supported 18 performances last year enabling 5,000 students to sit in an audience and see a live performance. She spoke of the new project of the Beautification Committee and its photographic calendar, and she thanked the Board for its support.

Mrs. Corinne Garland, representing Child Development Resources (CDR), stated there has been an enormous amount in the press lately about brain development in the first three years of a child's life, and CDR is concerned about the growth and development of children from birth to five years. She spoke of the Infant-Parent Program and the First Steps Program sponsored by CDR and their impact on the young children of York County. She urged the Board to fully support the Colonial Services Board budget and the CDR projects in the next fiscal year.

Mrs. Jennifer Herget, 226 Pasture Lane, spoke on behalf of the CDR programs and how they have helped her son who has hearing problems. She encouraged the Board to continue its full support of the Colonial Services Board and its programs.

Ms. Marcy Wright, representing Transitions Family Violence Services, spoke of the services provided to York County residents for 25 years, indicating the program was the sole service provider on the Peninsula. She indicated that 759 individuals had over 15,000 nights of shelter during the previous year, and the program took 1,366 hotline calls. She stated the program was moving from crisis management to longer term stays, giving families more time to make better plans for the future. Mrs. Wright stated that County funding keeps the doors open, and she expressed appreciation for the Board's support.

Ms. Barbara A. Felton, 276-3 Merrimac Trail, spoke of her involvement with the Colonial Services Board and Peoples Place and how the program had helped assist her in living independently in the Williamsburg community. She stated the vocational rehabilitation helped her become independent while it also assisted her with doctors to take care of her emotional problems. She asked the Board to continue its funding of the program through the Colonial Services Board.

Ms. Sharon Patacca, 310 Fielding Lewis Drive, also spoke of her involvement with the Colonial Services Board and Peoples Place and how they helped her reach her potential. She stated with her full-time job she is now living in her own apartment, and she asked the Board to continue its support of the Colonial Services Board.

Mr. Jack Eberhardt, 400 Merrimac Trail, Apartment 13, spoke of how Peoples Place has helped him, and he asked the Board to continue funding the Colonial Services Board.

Mr. William S. Massey, representing the Peninsula Agency on Aging (PAA), spoke of the outstanding partnership the PAA has had with York County and its Senior Center. He stated seniors represent 13 percent of the York County population, and he listed programs and ser-

vices that PAA provides to these citizens. Mr. Massey thanked the Board of Supervisors for its past support to the PAA.

Mr. Keith German, 109 River Point Drive, representing the Colonial Services Board, thanked the Board for its support of the Colonial Services Board programs and concerns. He stated the Colonial Services Board is preparing to deal with state reductions, and the proposed budget presented to the Board of Supervisors reflects level state funding. He noted that once the final budget comes from the state, the Colonial Services Board would make adjustments and continue to serve its clients with every effort being made to insure their safety and that of the community. Mr. German spoke of the developments occurring in the Colonial Services Board structure over the past 10 years with the state beginning to withdraw funds because of Medicaid funding. He asked the Board to consider full funding of the Colonial Services Board's request for FY03.

Mr. Barrent M. Henry, 100 Anacostia Turn, York County representative to the Colonial Services Board, stated he feels the County gets its greatest return from the dollars spent to fund the Colonial Services Board and its programs. He stated it is a dedicated group who, for modest salaries, provide outstanding services to its clientele. He stated Medicaid came into the arena several years ago and changed the funding under which the Board has operated, and it is now in a situation where the Governor has begun to pass the responsibilities of certain institutions back to the local governing bodies which is causing difficulties. Mr. Henry stated the state's budget is being cut by 3 percent under the Governor's recommendation for the remainder of the current fiscal year, and next fiscal year a 7 percent reduction is being recommended. He asked the Board to continue to support the Colonial Services Board to the maximum extent possible.

Ms. Marie Laubach, Lee Hall, Virginia, appeared to speak concerning Peninsula Reads, a program for literacy education to adults. She stated the program now serves 34 York County adult learners, and there are 55 volunteers and sponsors living in York County. Ms. Laubach expressed her appreciation to the Board of Supervisors for its past support and for any financial assistance it can provide in the up-coming budget.

There being no one else present who wished to speak during the Fiscal Year 2003 Budget Forum, Chairman Wiggins declared the forum closed.

APPLICATION NO. YVA-11-02, HERBERT AND MAUREEN MOSS

Mr. J. Mark Carter, Planning and Zoning Manager, made a brief presentation concerning Application No. YVA-11-02 to allow short-term rental to transient occupants of an existing single-family detached dwelling located at 224 Nelson Street. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R02-13.

Mr. Shepperd indicated there had been a bed and breakfast application before the Board some time back, and he asked what the difference was in that application and this one.

Mr. Carter stated this short-term rental would be the primary use of the property rather than a secondary use as it was with the other application. It is the only structure on the property and would only be occupied by one family at a time. Mr. Carter stated the structure would be occupied occasionally by guests or the property owners themselves.

Mr. Shepperd noted that the use would be less intensive than the bed and breakfast proposal.

Mr. Carter agreed it would be a less intensive use.

Mr. Burgett questioned why this matter had to come before the Board of Supervisors.

Mr. Carter indicated staff wanted to make sure they were following the letter of the Historic Village Activity District regulations. He noted that no one would be establishing a permanent residence in this house, which made it a unique proposal that staff did not think could be approved administratively.

Chairman Wiggins then called to order a public hearing on Application No. YVA-11-02 which

was duly advertised as required by law. Proposed Resolution R02-13 is entitled:

A RESOLUTION TO AUTHORIZE THE SHORT-TERM RENTAL OF
A SINGLE-FAMILY DWELLING LOCATED AT 224 NELSON
STREET IN THE VILLAGE OF YORKTOWN

Ms. Maureen Moss, the applicant, indicated she was present to address any concerns the Board members might have concerning the application.

There being no one else present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mrs. Noll moved the adoption of proposed Resolution R02-13 that reads:

A RESOLUTION TO AUTHORIZE THE SHORT-TERM RENTAL OF
A SINGLE-FAMILY DWELLING LOCATED AT 224 NELSON
STREET IN THE VILLAGE OF YORKTOWN

WHEREAS, Herbert and Maureen Moss have submitted Application No. YVA-11-02, pursuant to Section 24.1-327(b)(4) of the York County Zoning Ordinance, which is a request to allow short-term rental of an existing single-family dwelling to transient guests. The property is located at 224 Nelson Street and is further identified as Assessor's Parcel No. 18A-(1)-M2; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the comments of the public with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of February, 2002, that Application No. YVA-11-02 be, and it is hereby, approved subject to the following conditions:

1. This application shall authorize the establishment of a vacation cottage for short-term rental to transient guests in an existing structure on property located at 224 Nelson Street and further identified as Assessor's Parcel No. 18A-(1)-M2. The dwelling may not be rented on a daily basis. Rentals may be provided on a weekend, weekly, or monthly basis.
2. The proposed use shall be connected to public water and sanitary sewer service.
3. The maximum occupancy shall be four (4) persons while operated as a one-bedroom vacation cottage.
4. One (1) freestanding, non-illuminated sign, not exceeding four (4) square feet in area, shall be permitted to identify the use.
5. Retail sales on the premises shall not be permitted.
6. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call, the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins
Nay: (0)

APPLICATION NOS. ZM-64-02, HUGH A. WEST, AND UP-591-02, PROVIDENCE CLASSICAL SCHOOL

Mr. Carter made a presentation on Application No. ZM-64-02 requesting the deletion of a proffered condition which was part of a conditional rezoning application approved in 1987 on property located at 116 Palace Lane. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 02-2.

Mr. Burgett questioned how the applicant could proffer the exclusion of a public use. He stated if the government wanted a school there, it could establish one. Mr. Burgett stated he watched the Planning Commission meeting and was concerned about the density. He asked if someone could tear the building down and build a shopping center on the site.

Mr. Carter stated it could happen. A small shopping center could be placed on the property under the applicant's proposal. He stated many of the uses that are left as part of the proffer are commercial retail uses.

Mr. Burgett asked if the residents were aware of how intense the activity could become for that property.

Mr. Carter indicated the applicant held a meeting with the residents of Greensprings and, as a result, formulated the current proffer statement. Staff feels confident that the residents are aware of the application and the types of uses that can go in on this property.

Mr. Zaremba asked why the condition in the 1987 rezoning was placed on the property.

Mr. Carter stated that at the time the property was zoned R-12 and had been since 1985, although the Land Use Plan adopted in 1983 designated the property and surrounding area as general commercial. When the county-wide rezoning was done in 1985, this particular property was left in R-12 because of the church on the property at the time, and the fact that a church was allowed in R-12. When the church vacated the property, the owner was left with a vacant building, and he requested it be rezoned to Office/Professional/Research (OPR). Mr. Carter indicated he didn't know the specifics of how the particular proffer was arrived at; but it was done, and because the Comprehensive Plan called for general commercial, the OPR was consistent and the application was approved.

Mr. Zaremba indicated the Planning Commission vote was 4 to 3, and indicated it was not clear from the minutes of that meeting as to why the three "No" votes.

Mr. Carter stated he felt there was some concern about going from such a narrowly defined list of uses to something that was completely wide open, and it might have influenced the decision if the proffer had been in front of the Planning Commission at that time.

Mr. Zaremba asked Mr. Carter to summarize the concerns of noise and traffic and the stop sign in terms of what the proffer includes.

Mr. Carter stated there was no question that traffic flowing through Greensprings along Caran Road may be a problem with the use of this property as well as all the other properties surrounding it that are currently zoned business. He stated staff was pleased to see the applicant proffer out some of the higher traffic generating uses such as restaurants, which won't take the traffic away completely, but will minimize it.

Discussion followed about the four-story office building next to the subject property and the traffic generated by it.

Ms. Rita Stryker, representing the applicant, stated the property was currently restricted to a single use, that of a funeral home, and Mr. West was requesting that it be rezoned to Limited Business-Conditional to make it possible to lease or sell the property. She noted that Williamsburg Funeral Home, the previous tenant, had not renewed its lease, and Mr. West has been unable to find another funeral home to lease or buy the property. It is currently vacant and will remain so unless additional uses are permitted for the property. Ms. Stryker then reviewed the reasons why the Limited Business District appears to be the most appropriate

zoning for the property. She stated the Limited Business zoning is in compliance with the Comprehensive Plan, it protects the residents from more intense uses permitted in General Business or Limited Business-Unconditional; it increases the likelihood that the property would not be indefinitely unoccupied, and the Planning Commission and County staff had recommended approval of the application.

Chairman Wiggins then called to order a public hearing on Application No. ZM-64-02 which was duly advertised as required by law. Proposed Ordinance No. 02-2 is entitled:

AN ORDINANCE TO AMEND THE LB-LIMITED BUSINESS ZONING CLASSIFICATION FOR AN APPROXIMATELY 1.9-ACRE PARCEL LOCATED AT 116 PALACE LANE BY REMOVING THE CONDITION THAT LIMITS THE USE OF THE PROPERTY TO A FUNERAL HOME AND ADOPTING NEW CONDITIONS VOLUNTARILY PROFFERED BY THE APPLICANT

Mr. Hugh West, 733-A Turlington Road, Suffolk, the applicant, provided some background information for the Board on the previous rezoning in the 1980s that limited the use of the property to a funeral home. He stated he could not think of any use on this property that would produce any more traffic than the strip mall that is already in the area. He stated the building would stand vacant because it won't be used as a funeral home.

There being no one else present who wished to speak concerning the application, Chairman Wiggins closed the public hearing.

Discussion followed concerning the zoning of the surrounding properties.

Mr. Zaremba indicated the Board had a responsibility to both the business community as well as the citizens who live in the County, and there has been very little opposition to this particular request. He stated he did not like to see a building as attractive as Mr. West's atrophy because of lack of use.

Mr. Burgett stated he was concerned along with the three Planning Commission members about the intensity of use. He noted it is a very nice building on two acres, but he could see a shopping center being placed on it. Mr. Burgett stated the lack of concern by the residents living in the area indicates to him that this rezoning is what they want, and he would go along with that. He also noted he feels the school is a good idea, and the only problem he had was opening the property up to more intense uses.

Mr. Shepperd noted he did not understand how this conditional zoning was created. He stated he had received some emails in opposition to the application, but overall he found it interesting that there wasn't a lot of opposition.

Mrs. Noll stated she drove to the property to look at it, and there is a church on one side that generates traffic, and there are houses across the street. She indicated she walked the existing fence on the property and looked at the quality of the building. She stated she would not want to see the building remain unoccupied and deteriorate, and she feels a school would be appropriate for the building. Mrs. Noll also stated she felt the suggestion for a stop sign was a good one.

Chairman Wiggins indicated he also had visited the site, and he also feels the school is a very good use of the property.

Mrs. Noll then moved the adoption of proposed Ordinance No. 02-2 that reads:

AN ORDINANCE TO AMEND THE LB-LIMITED BUSINESS ZONING CLASSIFICATION FOR AN APPROXIMATELY 1.9-ACRE PARCEL LOCATED AT 116 PALACE LANE BY REMOVING THE CONDITION THAT LIMITS THE USE OF THE PROPERTY TO A FUNERAL HOME AND ADOPTING NEW CONDITIONS VOLUNTARILY PROFFERED BY THE APPLICANT

WHEREAS, Hugh A. West has submitted Application No. ZM-64-02 (conditional), which requests removal of a previously proffered zoning condition that limits the use of an approxi-

mately 1.9-acre parcel located at 116 Palace Lane, further identified as Assessor's Parcel No. 9-11, to a funeral home, and adoption of a new set of conditions which he has voluntarily proffered; and

WHEREAS, said application has been forwarded to the York County Planning Commission; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Board has given careful consideration to the public comments with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 5th day of February, 2002, that Application No. ZM-64-02 be, and it hereby is, approved to remove a previously proffered zoning condition that limits the use of an approximately 1.9-acre parcel located at 116 Palace Lane, further identified as Assessor's Parcel No. 9-11, to a funeral home, and to approve a new set of conditions voluntarily proffered by the property owner in the proffer statement titled "Proffer of Conditions - Rezoning Application No. ZM-64-02," dated January 16, 2002, signed by Hugh A. West, and set out as follows:

1. Applicant proffers to exclude the following use permitted by right in the Limited Business district:

Public and Semi-Public Uses

- Conference Center
- Post Office
- Museum
- Government Office
- Libraries
- Public Safety Facilities
- Governmental Parks and Recreation Facilities
- Cemetery
- County Jail

Under Commercial/Retail

- ABC Store
- Auto Parts Accessories (new parts)

Under Business/Profession Service

- Restaurant/Sit Down
- Restaurant- Carryout/Delivery only

Temporary Uses

- Temporary Construction Workers' Parking

General Industrial

- Reclamation of Non-Conforming Borrow Pits

Utilities

Sewage Pump/Lift Stations

On roll call, the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins
Nay: (0)

Mr. Carter then made a presentation on Application No. UP-591-02 requesting authorization to establish a private school on the property at 116 Palace Lane. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R02-14. Mr. Carter discussed the applicant's request for the placement of the

playground, and he indicated if the Board wished to accept the applicant's placement, then adoption of the resolution with the deletion of condition 4 would be appropriate.

Discussion followed concerning the gravel drive owned by the owner of the office building and closing it off if the school use were approved.

Mr. Shepperd spoke of the issue of the restrictions on the people traveling on Caran Road and their not having children in the school in order to do so. He stated the restriction was unusual to prohibit someone from driving on a public road.

Mr. Carter indicated it was a proffer of the applicant.

Mr. Shepperd asked what the County would do if the restriction was not enforced by the school.

Mr. Carter stated it would be treated as any other violation of a use permit.

Mr. Shepperd stated he felt restrictions were being placed on the property over which the applicant nor the County have any control; it is a public highway.

Mrs. Noll stated she felt it was a rather innovative way to handle the situation. The County often tells school buses which way they can go on certain public roads. If another school application that came before this one had been as innovative, it might have fared better.

Mr. Shepperd indicated he had no objection to the idea, but his question was to whether or not the County was buying into something that legally it cannot hold the landowner responsible for.

Mr. Barnett stated it was a novel approach; access and traffic flow are traditional land use issues. He stated this instance deals with traffic flow connected with a use of property.

Mr. Carter also noted that the County had applied conditions to other use permits restricting certain routes to be used by certain uses.

Mr. Shepperd asked if the application would be increasing the impervious surface anywhere.

Mr. Carter indicated it did not.

Ms. Rita Stryker, representing the Providence Classical School, stated the subject property was chosen for the school because it could accommodate the school's needs for the next 3 to 9 years, and the interior space can be easily configured to provide 7 or 8 classrooms, an assembly or chapel area, and office space. The green space on the property is adequate for a play area, and there is ample parking space. Ms. Stryker stated the school has begun to develop relationships with the neighbors, and they are sensitive to the traffic concerns of the residents. She noted they have proposed a school policy to eliminate school traffic on Caran Road, and they have requested a stop sign to minimize potential accidents at the intersection of Caran Road and Palace Lane. She also noted the school would serve as an ideal buffer between the commercial uses on Palace Lane and the Greensprings neighborhood. Ms. Stryker urged the Board to approve the school's application. She then noted the staff had recommended conditions to the use permit which the school had agreed to with the exception of the location of the playground. She stated she felt the location required by staff was dangerous because the school has no control over the traffic on the gravel road.

Discussion followed concerning the placement of the playground on the property.

Mr. Shepperd asked the ages of the children to be enrolled in the school.

Ms. Stryker indicated the classes would be Kindergarten through Fifth Grade.

Chairman Wiggins asked how many classes would be outside at one time.

Ms. Stryker stated there would be a maximum of 36 children, or two classes, outside at one time.

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Discussion followed regarding the gravel driveway and the office building owner being made to comply with his use permit. Also, further discussion followed concerning the placement of the playground on the property and how the school would deal with a growing enrollment.

Chairman Wiggins then called to order a public hearing on Application No. UP-591-02 which was duly advertised as required by law. Proposed Resolution R02-14 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A PRIVATE SCHOOL AT 116 PALACE LANE

Mr. Hugh West noted he had experience living next to a private school, and he never heard of any complaint at all about noise. He stated he was impressed with this school's proposal and the dedicated people involved in it. He asked the Board to act favorably on the use permit application.

Mr. Zaremba asked if the lease on the property has an option for the school to purchase it.

Mr. West indicated the lease did give the school the option to purchase.

There being no one else present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mr. Shepperd moved that proposed Resolution R02-14 be amended to delete Condition No. 4 regarding the placement of the playground.

Discussion followed concerning removal of the requirement to locate the playground on the southwest side of the building.

On roll call on Mr. Shepperd's motion to delete Condition No. 4 from proposed Resolution R02-14, the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins
Nay: (0)

Mrs. Noll then moved the adoption of proposed Resolution R02-14(R) that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A PRIVATE SCHOOL AT 116 PALACE LANE

WHEREAS, Providence Classical School has submitted Application No. UP-591-02, to request a special use permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (category 5, number 2(b)) to authorize the establishment of a private school within an existing structure located at 116 Palace Lane and further identified as Assessor's Parcel No. 9-11; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the comments of the public with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of February, 2002, that Application No. UP-591-02 be, and it is hereby, approved subject to the following conditions:

1. This use permit shall authorize the establishment of a private school within an existing building on property located at 116 Palace Lane and further identified as Assessor's Parcel No. 9-11.

2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of any renovation of the existing structure. Said site plan shall identify classroom, office, and assembly space.
3. The private school shall be developed and operated in accordance with the standards set forth in Section 24.1-427, Standards for all educational uses, of the York County Zoning Ordinance.
4. Temporary modular classrooms shall not be permitted on the site.
5. School enrollment shall be limited to a maximum of 111 students. Providence Classical School shall submit, in writing, enrollment data to the Planning Division by October 1 annually. If the school wishes to increase its enrollment above 111 students, an application for an amendment to the special use permit shall be required. A traffic impact analysis, prepared in accordance with the standards set out in Article 2, Division 5, of the Zoning Ordinance shall be submitted with the application and shall include an analysis of the school-related traffic on such adjacent roadways/intersections as prescribed by those requirements, and particularly any anticipated traffic impacts on Caran Road.
6. Providence Classical School shall be responsible for developing, implementing and enforcing a policy for student drop-off and pick-up consistent with that described in the school's written remarks presented to the Planning Commission and dated January 9, 2002, a copy of which is contained in the application file. Such policy shall include an identification sticker system for parent vehicles and shall clearly state that parent and other school-related traffic (e.g., staff, faculty, etc.) shall not use Caran Road as an access route to the school. In addition, the policy shall contain a provision that documented repeat violators (i.e., second documented violation) will lose their school attendance privileges. The policy shall be submitted for review and approval by the Zoning Administrator prior to the opening of the school.
7. In conjunction with the design and review of the site plan for the school, specific attention shall be given to the establishment of appropriate circulation control at the site entrances (e.g., turn restrictions, one-way limitations) intended to minimize the potential for school-related traffic using Caran Road.
8. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call, the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins
Nay: (0)

CONSENT CALENDAR

Mr. Burgett asked that Item No. 6 be removed from the Consent Calendar.

Mr. Shepperd asked that Item No. 5 be removed from the Consent Calendar.

Mrs. Noll moved that the Consent Calendar be approved as amended, Item Nos. 3 and 4, respectively.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 3. APPROVAL OF MINUTES.

The minutes of the following meetings of the York County Board of Supervisors were approved:

January 2, 2002, Regular Meeting

Item No. 4. RECOGNITION OF THE 100TH BIRTHDAY OF MRS LYDIA FRAISER GARDNER:
Resolution R02-27

A RESOLUTION TO RECOGNIZE AND CONGRATULATE LYDIA
FRAISER GARDNER UPON THE OCCASION OF HER 100TH
BIRTHDAY

WHEREAS, Mrs. Lydia Fraiser Gardner was born on February 13, 1902, in Williamsburg, Virginia; and

WHEREAS, Mrs. Gardner and her husband, Clifton E. Gardner, Sr., raised their five children to be respected, God-fearing, law abiding American citizens, and who provided them with eight grandchildren and three great-grandchildren; and

WHEREAS, her faith in God and active participation in First Baptist Church of Williamsburg has afforded her good physical health, an alert mind, close family ties, and an abundance of friends; and

WHEREAS, Mrs. Gardner provided her assistance to the City of Williamsburg in the reconstruction of its pre-restoration map of the City for its 300th Anniversary, and a copy of it has been placed on the inside cover of the book published by the City of Williamsburg, Williamsburg, Virginia: A City Before the State, (1699-1999); and

WHEREAS, due to her phenomenal memory, her oral history of African American families living in Williamsburg from 1912 to 1955 was provided to author Linda Rowe and were published in Ms. Rowe's book, in a chapter entitled "African Americans in Williamsburg (1965-1945)"; and

WHEREAS, Mrs. Gardner has always taken her civic responsibility seriously, and she continues to be an inspiration to her former students, family, church, friends, and community;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of February, 2002, that Mrs. Lydia Fraiser Gardner be, and she is hereby, congratulated on the occasion of her 100th birthday and commended for the positive role model she has been all her life for her family, friends, and community.

BE IT FURTHER RESOLVED that the very best and heartfelt wishes of the York County Board of Supervisors are hereby extended to Mrs. Gardner for a very grand and joyful birthday celebration, as well as continued good health and happiness.

Item No. 6. PURCHASE AUTHORIZATION: Proposed Resolution R02-21(R) (Removed from Consent Calendar)

Mr. Burgett noted that the firm receiving the engineering design services contract is a source of concern for him. He stated on numerous occasions this particular firm has been at odds with the County, and if a contract is let to them he questioned their veracity in how it talks about the County to others.

Mr. John Hudgins, Director of Environmental and Development Services, noted that from time to time the County and its contractors have had differences of opinions regarding development reviews. He stated this particular contract for design services was sent through the committee approach, and the individuals working on this contract will come mostly out of Virginia Beach. The company presented itself along with the other firms, and it had the best proposal. Mr. Hudgins stated that the contract firm is selected regardless of times when there had been problems with the review process. He noted staff had had the same problems with other firms.

Mr. Burgett stated if the County is going to hire a contractor, as a courtesy they should at least refrain from saying bad things about the County.

Mr. Zaremba stated he did not understand what call contracts are.

Mr. Hudgins explained that it takes a lot of staff and procurement time to secure services for small contracts, and this action is similar to what was done with the architectural design services contract. When a particular service is needed, staff will call the contractor to negotiate the specific need, and will come to the Board for further approval if the cost is over \$30,000.

Discussion followed on the amount of the contract for miscellaneous engineering design services.

Mr. Zaremba asked that in the future staff take more time to more thoroughly explain the issues in the memorandum that it is asking the Board to approve.

Mr. Burgett moved the adoption of proposed Resolution R02-21(R) that reads:

A RESOLUTION TO PROCURE MISCELLANEOUS ENGINEERING
DESIGN SERVICES AND 800MHZ COMMUNICATIONS CON-
SULTANT SERVICES

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, that they involve the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of February, 2002, that the County Administrator be, and hereby is, authorized to conclude procurement arrangements for the following:

	<u>AMOUNT</u>
Misc. Engineering Design Services (estimate)	\$ 100,000
800Mhz Communications Consultant Services	100,000

On roll call, the vote was:

Yea:	(5)	Zaremba, Noll, Burgett, Shepperd, Wiggins
Nay:	(0)	

Item No. 5. PUBLIC SEWER EXTENSION AGREEMENT—WAWA FOOD MARKET: Proposed Resolution R02-19 (Removed from Consent Calendar)

Mr. Shepperd asked if the food market was a by right establishment.

Mr. McReynolds stated it was.

Mr. Shepperd asked if the staff has considered future capacity of the County's sewer system in making the recommendation for this extension.

Mr. McReynolds stated it has considered future capacity.

Mr. Shepperd then expressed his concern as to why the Board was even looking at this type of action.

Mr. McReynolds stated the current code requires that any extension of the County's sewer system be approved by the Board of Supervisors. He noted that staff has proposed that the regulation be removed and replaced by one requiring staff to bring before the Board only those

requests that do not meet the requirements of the Comprehensive Plan or those where it is found that sufficient capacity does not exist on the system to warrant approval.

Mr. Shepperd then moved the adoption of proposed Resolution R02-19 that reads:

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS WAWA FOOD MARKET, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, WAWA, Inc., has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve a new food market; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$3,175;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of February, 2002, that the Board approves the extension of the County's public sewer system to serve the proposed development, WAWA Food Market, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with WAWA, Inc., for the proposed extension; such agreement to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins
Nay: (0)

NEW BUSINESS

APPROVAL OF 2001 MINUTES

Mr. McReynolds explained that since Mr. Wiggins was not the Chairman at the time of the subject meetings held in 2001, the Code of Virginia required that the minutes be read prior to their approval and that the current Chairman be authorized to sign them.

Chairman Wiggins polled the Board members, determining that each of them had read the minutes of the December 11 and December 18 Board meetings.

Mrs. Noll then moved that the minutes of the December 11, 2001, Adjourned Meeting, and the December 18, 2001, Regular Meeting of the York County Board of Supervisors be approved as submitted and that Chairman Wiggins be authorized to sign such.

On roll call, the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins
Nay: (0)

ALLOCATION OF LODGING TAX REVENUES

Mr. McReynolds made a brief presentation regarding proposed Resolution R02-25 to approve requests of the Yorktown July 4th Celebration Committee and the Celebrate Yorktown Committee for allocations of funding generated from the lodging tax. He point out that the revenue used from the lodging tax is from the 3 percent increase granted by the General Assembly, provided that it be used to promote tourism and tourism-related activities.

Mrs. Noll stated the Board has supported these organizations in the past, and they have added much to the life in Yorktown.

Mr. Shepperd asked about the solar powered message signs that were a part of the requested funding for the July 4th event.

Mr. McReynolds indicated the funding was for the rental of the solar signs for traffic control, and the portable lighting would also be rented.

Mr. Zaremba then moved the adoption of proposed Resolution R02-25 that reads:

A RESOLUTION TO APPROVE CERTAIN REQUESTS FOR ALLOCATION OF REVENUES GENERATED BY LODGING TAXES AND INTENDED TO ENHANCE TOURISM AND TOURISM-RELATED BUSINESS IN YORK COUNTY

WHEREAS, the Board has received several requests for allocation of funds generated by the additional 3% lodging tax enacted on July 1, 1996 which, according to the enabling legislation, are to be spent for promoting tourism, travel, or business that generates tourism and travel; and

WHEREAS, the Board has reviewed the requests and the associated report prepared by the County Administrator and has carefully considered the potential for the proposed programs to generate increased visitation and expenditures in York County and Yorktown;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of February, 2002, that the following requests for funding be, and they are hereby, approved:

- | | |
|---|----------|
| • Yorktown July 4 th Celebration | \$29,000 |
| • Celebrate Yorktown Committee – Symphony Concert | \$6,000 |

On roll call, the vote was:

Yea:	(5)	Shepperd, Zaremba, Noll, Burgett, Wiggins
Nay:	(0)	

ACQUISITION OF PROPERTY ON GOODWIN NECK ROAD

Mr. McReynolds made a brief presentation regarding proposed Resolution R02-26 to authorize the execution of a contract for the purchase of approximately 12 acres of property on Goodwin Neck Road to address additional space needs at the Waste Management Center and the Goodwin Neck Road campus.

Mrs. Noll moved the adoption of proposed Resolution R02-26 that reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO SIGN A CONTRACT FOR THE PURCHASE OF APPROXIMATELY 12 ACRES IDENTIFIED AS TAX PARCEL 24-(35)-A OF APPROXIMATELY 7.46 ACRES AND TAX PARCEL 24-(35)-A1 OF APPROXIMATELY 4.45 ACRES

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WHEREAS, the County is experiencing queuing and access problems at the Waste Management Center that impacts the safety of its citizens; and

WHEREAS, the County has a need to expand its utility maintenance operations in conjunction with the growth of its sanitary sewer system; and

WHEREAS, property owned by Alonzo F. Gray, II, located at 159 and 163 Goodwin Neck Road has been offered to the County at the assessed value; and

WHEREAS, this property is immediately adjacent to both the Waste Management Center and the utility maintenance operation center and will be able to facilitate their expansion to better serve our citizens; and

WHEREAS, the remaining portion of this property may be utilized by the County for the future expansion of the Goodwin Neck Road municipal campus;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 5th day of February, 2002, that the County Administrator be, and he is hereby, authorized to execute a contract for the purchase of the subject property at the assessed value of \$551,200 and expend funds necessary for all appropriate closing costs associated with this acquisition.

BE IT FURTHER RESOLVED that the funds for this acquisition shall be divided equally between the Solid Waste Management Fund (Fund 21) and the Sewer Utility Fund (Fund 25).

On roll call, the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins
Nay: (0)

Meeting Adjourned. At 10:55 p.m. Chairman Wiggins declared the meeting adjourned to 6:00 p.m., Tuesday, February 12, 2002, in the East Room, York Hall, for the purpose of conducting a work session.

James O. McReynolds, Clerk
York County Board of Supervisors

Donald E. Wiggins, Chairman
York County Board of Supervisors